

EXHIBIT 451

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

- - -

| | | |
|-----------------------|---|---------------------|
| IN RE: NATIONAL | : | |
| PRESCRIPTION | : | MDL No. 2804 |
| OPIATE LITIGATION | : | |
| | : | Case No. |
| | : | 1:17-MD-2804 |
| THIS DOCUMENT RELATES | : | |
| TO ALL CASES | : | Hon. Dan A. Polster |

- - -

Thursday, January 3, 2019

HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
CONFIDENTIALITY REVIEW

- - -

Videotaped deposition of JILL A. STRANG, held
at the offices of Cavitch, Familo & Durkin,
1300 East Ninth Street, Cleveland, Ohio, commencing at
8:57 a.m., on the above date, before Carol A. Kirk,
Registered Merit Reporter and Notary Public.

- - -

GOLKOW LITIGATION SERVICES
877.370.3377 ph | 917.591.5672 fax
deps@golkow.com

| | |
|---|---|
| <p style="text-align: right;">Page 106</p> <p>1 an order as suspicious, correct?</p> <p>2 A. No.</p> <p>3 Q. Okay. And I'm assuming, based on</p> <p>4 the testimony you just gave me, that there was</p> <p>5 never a time where you or anyone at DDM stopped</p> <p>6 a -- or suspended a shipment of a controlled</p> <p>7 substance based on a concern that it was</p> <p>8 suspicious, correct?</p> <p>9 A. Correct.</p> <p>10 Q. Do you know whether any DDM</p> <p>11 pharmacist has refused to fill a prescription on</p> <p>12 the belief that it was suspicious?</p> <p>13 MR. JOHNSON: Objection.</p> <p>14 A. I do not.</p> <p>15 Q. You don't know? Do you know who</p> <p>16 would know that?</p> <p>17 A. Peter or Jason.</p> <p>18 Q. Are you aware of the procedures</p> <p>19 that they have in place with their pharmacists</p> <p>20 to, you know, communicate about orders that a</p> <p>21 pharmacist determined were suspicious?</p> <p>22 A. I do not, other than that report</p> <p>23 that Jason uses on a monthly basis to ask about</p> <p>24 that, but on a specific occasion, no, I do not.</p> | <p style="text-align: right;">Page 108</p> <p>1 MR. JOHNSON: Objection.</p> <p>2 A. I do not know that.</p> <p>3 Q. Okay.</p> <p>4 THE VIDEOGRAPHER: Counsel on the</p> <p>5 phone, could you put your phone on mute,</p> <p>6 please.</p> <p>7 BY MR. MULLIGAN:</p> <p>8 Q. Do you know whether DDM -- other</p> <p>9 than that one-month report -- ever analyzed data</p> <p>10 that it collected regarding the movement of</p> <p>11 controlled substances to determine whether</p> <p>12 diversion was taking place?</p> <p>13 A. I do not know.</p> <p>14 Q. You don't know? Okay.</p> <p>15 A. No.</p> <p>16 Q. Were you ever involved in any sort</p> <p>17 of internal audit regarding the sale of opioids</p> <p>18 to identify patterns regarding prescriptions?</p> <p>19 A. Repeat that, please.</p> <p>20 Q. Have you ever been involved in any</p> <p>21 sort of DDM audit or investigation to look at</p> <p>22 opioid sales to determine whether there were any</p> <p>23 patterns that may reflect diversion was taking</p> <p>24 place?</p> |
| <p style="text-align: right;">Page 107</p> <p>1 I do not -- I'm not involved in that.</p> <p>2 Q. When you communicate with</p> <p>3 pharmacists about, you know, "Hey, was this</p> <p>4 order what you meant to order," would you</p> <p>5 provide them with any sort of forms, or would</p> <p>6 that communication be oral?</p> <p>7 A. Oral.</p> <p>8 Q. Okay. Did you ever send an</p> <p>9 e-mail?</p> <p>10 A. No.</p> <p>11 Q. Any reason why it would be oral</p> <p>12 and not be an e-mail?</p> <p>13 A. Because an e-mail -- I needed an</p> <p>14 answer right then and there so we could pull the</p> <p>15 order, we could reduce the order, and have it</p> <p>16 invoiced and ready to go for the day, because</p> <p>17 we'd be waiting on that.</p> <p>18 Q. So you're in the midst of filling</p> <p>19 this order and you catch this glitch and you --</p> <p>20 everything has to stop until you resolve it so</p> <p>21 you pick up the phone and you call them?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Do you know whether DDM has</p> <p>24 ever identified a pill mill?</p> | <p style="text-align: right;">Page 109</p> <p>1 MR. JOHNSON: Objection.</p> <p>2 You can answer.</p> <p>3 A. No.</p> <p>4 Q. Okay. I know you said that you've</p> <p>5 never identified a suspicious order, correct?</p> <p>6 A. Correct.</p> <p>7 Q. And you don't know of anyone at</p> <p>8 DDM who has ever identified a suspicious order,</p> <p>9 correct?</p> <p>10 A. Correct.</p> <p>11 Q. Have you or anyone ever identified</p> <p>12 a possible suspicious order that required</p> <p>13 additional due diligence or investigation?</p> <p>14 A. No.</p> <p>15 Q. If someone said to you, "I think</p> <p>16 this order is potentially suspicious," what</p> <p>17 would you do? Would you know what to do? Is</p> <p>18 there a policy or procedure that says what the</p> <p>19 next steps are?</p> <p>20 A. There is not a written policy, but</p> <p>21 I would definitely go to my supervisor and make</p> <p>22 them aware of it.</p> <p>23 Q. And that would be Jason and Pete?</p> <p>24 A. Correct.</p> |

| | |
|--|---|
| <p style="text-align: right;">Page 130</p> <p>1 Q. And the response identifies Tom 2 Nameth, P.J. Ferut -- 3 MR. JOHNSON: Ferut. 4 Q. -- Ferut, Jill Strang, Jason 5 Briscoe, Pete Ratycz, and Keith Miller. 6 Do you see that? 7 A. Yes. 8 Q. Do you know what each of these 9 individuals did as it relates to that activity? 10 I mean, obviously we talked about what you did. 11 And I'm just curious if you know the scope of 12 what everybody else did. 13 MR. JOHNSON: I'm going to object. 14 But go ahead. 15 MR. MULLIGAN: What's the basis of 16 your objection? 17 A. Well, P.J. -- oh, sorry. 18 MR. MULLIGAN: Tim -- 19 MR. JOHNSON: What's -- I'm sorry? 20 MR. MULLIGAN: What's the basis of 21 your objection? 22 MR. JOHNSON: You haven't 23 established a foundation of knowledge 24 that she would know what everybody in</p> | <p style="text-align: right;">Page 132</p> <p>1 suspicious order monitoring policies are, 2 correct? 3 MR. JOHNSON: Objection. 4 A. No. 5 Q. Okay. So clarify that for me. 6 A. There were 16 or 17 documents 7 about VAWD, one of which that's in that 8 procedure is about suspicious ordering. There's 9 nothing in writing about suspicious ordering, to 10 my knowledge. 11 Q. Okay. So DDM has no written 12 policies and procedures regarding suspicious 13 order monitoring? 14 A. Other than what I wrote in VAWD, 15 no. 16 Q. Which was something you wrote as 17 part of an application to get an accreditation, 18 correct? 19 A. Yes. 20 Q. But that's not actively used to 21 train people or to control what happens at DDM 22 regarding suspicious orders, correct? 23 A. No. 24 Q. Okay. And so would it be fair to</p> |
| <p style="text-align: right;">Page 131</p> <p>1 the organization is doing. If you're -- 2 MR. MULLIGAN: Well, I asked. 3 MR. JOHNSON: -- you're asking her 4 what their duties are, isn't that better 5 to ask the individuals? 6 MR. MULLIGAN: Well, I asked her 7 if she knew what their duties were. 8 MR. JOHNSON: Okay. 9 MR. MULLIGAN: That was the 10 premise of the question. 11 BY MR. MULLIGAN: 12 Q. You can answer. 13 A. Keith and P.J. are our computer IT 14 people. Pete, Jason, and Tom held the 15 responsibilities that we've talked about, and 16 then myself. 17 Q. Okay. So I appreciate that that's 18 what their titles were or that's what their 19 positions were, but do you know what they did as 20 it relates to suspicious order monitoring? 21 A. No. 22 Q. Okay. And I think earlier you 23 testified that there are 16 or 17 documents at 24 DDM which go in great detail about what DDM's</p> | <p style="text-align: right;">Page 133</p> <p>1 say that other than what we've talked about you 2 do, you're not really aware of what anybody else 3 does regarding suspicious order monitoring, 4 other than Tom and Jason look at that monthly 5 report that reflects the year -- last year 6 history? 7 A. And I do know that P.J. and Keith 8 report to ARCOS. 9 Q. They make sure that information 10 goes into the system? 11 A. Yes, yes. 12 Q. Do you interact with these 13 people -- 14 MR. JOHNSON: If you keep watching 15 that TV, you're going to get seasick. 16 THE WITNESS: Sorry. 17 MR. JOHNSON: Okay. 18 BY MR. MULLIGAN: 19 Q. Do you interact with these people 20 on a daily or weekly basis regarding suspicious 21 orders? 22 A. No. 23 Q. Okay. Has anybody at DDM or 24 outside of DDM ever indicated to you that they</p> |

| | |
|--|---|
| <p style="text-align: right;">Page 194</p> <p>1 know, it wasn't a DDM policy or procedure ever?</p> <p>2 A. Shown to me, no.</p> <p>3 Q. Okay. And I think as you</p> <p>4 testified earlier, that if you were engaged</p> <p>5 enough in DDM's suspicious order monitoring</p> <p>6 policies, that if there was one, you'd know</p> <p>7 about it, right?</p> <p>8 A. Correct.</p> <p>9 Q. Okay. So is it possible that this</p> <p>10 was just provided to the wholesaler to check a</p> <p>11 box with them to say, "Hey, we've got something</p> <p>12 in writing. Here it is."</p> <p>13 MR. JOHNSON: Objection.</p> <p>14 Go ahead and answer.</p> <p>15 A. The manufacturer.</p> <p>16 Q. Correct.</p> <p>17 A. Possibly, or they wanted to see --</p> <p>18 because it -- it is policies written, I don't</p> <p>19 know if the director of operations was going to</p> <p>20 follow through and place it for all of us to</p> <p>21 make it a true policy.</p> <p>22 Q. Okay. But I think as you</p> <p>23 testified earlier that as of even today, DDM</p> <p>24 doesn't have any written suspicious order</p> | <p style="text-align: right;">Page 196</p> <p>1 Thursday Afternoon Session</p> <p>January 3, 2019</p> <p>2 12:52 p.m.</p> <p>3 ---</p> <p>4 THE VIDEOGRAPHER: The time is</p> <p>5 12:52. Back on the record.</p> <p>6 BY MR. MULLIGAN:</p> <p>7 Q. All right. We're back after</p> <p>8 lunch.</p> <p>9 Are you ready to go, Ms. Strang?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Great. Let's start with an</p> <p>12 exhibit. I'm going to have Ms. Roach hand you</p> <p>13 what she's marking as Exhibit 10.</p> <p>14 ---</p> <p>15 (DDM-Strang Exhibit 10 marked.)</p> <p>16 ---</p> <p>17 BY MR. MULLIGAN:</p> <p>18 Q. And this is DDM12909. And at the</p> <p>19 top it says, "Rx operational procedure bulletin</p> <p>20 Discount Drug Mart." And the subject is</p> <p>21 "Controlled substance quality assurance."</p> <p>22 Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. Have you ever seen this before?</p> |
| <p style="text-align: right;">Page 195</p> <p>1 monitoring policies or procedures, right?</p> <p>2 A. Not that I was aware of, no.</p> <p>3 Q. So as far as you know, this could</p> <p>4 have just been forwarded to the wholesaler to</p> <p>5 satisfy what they needed so you could get drugs</p> <p>6 for your stores?</p> <p>7 A. I can't say that --</p> <p>8 MR. JOHNSON: Objection to that.</p> <p>9 You can answer the question.</p> <p>10 A. I can't say that because I don't</p> <p>11 remember why it was forwarded.</p> <p>12 Q. Okay.</p> <p>13 MR. MULLIGAN: How do you feel</p> <p>14 about lunch? Do you want to do lunch</p> <p>15 now?</p> <p>16 MR. JOHNSON: Yeah, it's as good</p> <p>17 as any.</p> <p>18 MR. MULLIGAN: Okay.</p> <p>19 THE VIDEOGRAPHER: The time is</p> <p>20 12:09. Going off the record.</p> <p>21 ---</p> <p>22 Thereupon, at 12:09 p.m. a lunch</p> <p>23 recess was taken until 12:52 p.m.</p> <p>24 ---</p> | <p style="text-align: right;">Page 197</p> <p>1 A. No.</p> <p>2 Q. So do you know whether this</p> <p>3 relates to suspicious order monitoring?</p> <p>4 A. I do not, because it was sent to</p> <p>5 all the pharmacists, technicians and interns,</p> <p>6 and I do not believe I was given a copy of this.</p> <p>7 Q. Okay. And so to the extent that</p> <p>8 you're the process owner for suspicious order</p> <p>9 monitoring, would you expect to have been</p> <p>10 included in the drafting and distribution of</p> <p>11 this policy?</p> <p>12 A. No.</p> <p>13 Q. And why is that?</p> <p>14 A. It was handled by either Tom or</p> <p>15 Jason at the time.</p> <p>16 Q. So it would be fair to say that</p> <p>17 your role in suspicious order monitoring is</p> <p>18 limited solely to the distribution center?</p> <p>19 A. Yes.</p> <p>20 Q. So anything that has to do with</p> <p>21 how pharmacists evaluate prescriptions and</p> <p>22 monitor for diversion, you would not be involved</p> <p>23 in that?</p> <p>24 A. No.</p> |

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

- - -

| | | |
|-----------------------|---|---------------------|
| IN RE: NATIONAL | : | |
| PRESCRIPTION | : | MDL No. 2804 |
| OPIATE LITIGATION | : | |
| | : | Case No. |
| | : | 1:17-MD-2804 |
| THIS DOCUMENT RELATES | : | |
| TO ALL CASES | : | Hon. Dan A. Polster |

- - -

Monday, January 7, 2019

HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
CONFIDENTIALITY REVIEW

- - -

Videotaped deposition of TOM NAMETH, held at
the offices of Cavitch, Familo & Durkin,
1300 East Ninth Street, Cleveland, Ohio, commencing at
9:03 a.m., on the above date, before Carol A. Kirk,
Registered Merit Reporter and Notary Public.

- - -

GOLKOW LITIGATION SERVICES
877.370.3377 ph | 917.591.5672 fax
deps@golkow.com

| | |
|--|---|
| <p style="text-align: right;">Page 22</p> <p>1 believe, '02.</p> <p>2 Q. Okay. So it would be fair to say</p> <p>3 you've got a pretty in-depth understanding as to</p> <p>4 how DDM's business works?</p> <p>5 A. I would think so.</p> <p>6 Q. And specifically as it relates to</p> <p>7 its pharmacy?</p> <p>8 A. Yes.</p> <p>9 Q. And you're also very well versed</p> <p>10 in sort of the pharmaceutical business, retail</p> <p>11 business, if you will?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. So as the director of</p> <p>14 pharmacy operations, what were your primary</p> <p>15 responsibilities?</p> <p>16 A. Well, anything that went on, you</p> <p>17 know, in the pharmacies themselves, hiring,</p> <p>18 firing, you know, staffing, making sure the</p> <p>19 stores are run properly, looking at stores', you</p> <p>20 know, profitabilities and inventories.</p> <p>21 Q. Is there anything else that you</p> <p>22 were responsible for as director of pharmacy</p> <p>23 operations that you can think of?</p> <p>24 A. I mean, you know, not offhand.</p> | <p style="text-align: right;">Page 24</p> <p>1 responsibilities were related to diversion.</p> <p>2 A. Okay. Once a policy was</p> <p>3 determined on how we're going to go about</p> <p>4 organizing and making sure that there was no</p> <p>5 diversion, whether that be theft or whether it</p> <p>6 be -- whether it be just routine distribution,</p> <p>7 my job was to make sure that the process was</p> <p>8 done on a regular basis and making -- and react</p> <p>9 to situations when they did come up.</p> <p>10 Q. Okay. When was a -- well, you</p> <p>11 said when a policy was determined, what do you</p> <p>12 mean by that?</p> <p>13 A. Well, we're a small company, so we</p> <p>14 determined what we wanted to do on a regular</p> <p>15 basis, on an ongoing basis, whether or not --</p> <p>16 there was -- at that time there was a report</p> <p>17 that was run on a monthly basis, and someone had</p> <p>18 to review the report on a regular basis, and</p> <p>19 take appropriate steps when necessary. So, you</p> <p>20 know, we knew our duties at that time and</p> <p>21 fulfilled those duties.</p> <p>22 Q. All right. So I'll just -- we're</p> <p>23 talking -- you're talking in very general terms,</p> <p>24 and so what that means is I'm going to have to</p> |
| <p style="text-align: right;">Page 23</p> <p>1 Q. Okay. You know why we're here</p> <p>2 today, right?</p> <p>3 A. Yes.</p> <p>4 Q. And why is that?</p> <p>5 A. Looking at the opioid problems,</p> <p>6 situations, in the country.</p> <p>7 Q. Okay. And could you be a little</p> <p>8 more specific?</p> <p>9 A. Looking at possible drug</p> <p>10 diversion, what that is, and how do you go about</p> <p>11 fighting that problem, I guess.</p> <p>12 Q. Were you responsible for</p> <p>13 overseeing DDM's system to detect and deter</p> <p>14 diversion?</p> <p>15 A. I wouldn't say responsible. As</p> <p>16 far as what -- as far as writing it or as far as</p> <p>17 operations or what?</p> <p>18 Q. Go ahead and tell me what you were</p> <p>19 responsible for.</p> <p>20 A. More of the operational aspect of</p> <p>21 it.</p> <p>22 Q. Okay. How do you define</p> <p>23 "operational"? I want to just make sure I</p> <p>24 understand sort of the scope of what your</p> | <p style="text-align: right;">Page 25</p> <p>1 ask you a lot of follow-up questions, so -- and</p> <p>2 that's fine. But I'm going to try to dig into</p> <p>3 that a little bit more --</p> <p>4 A. Okay.</p> <p>5 Q. -- so we don't -- we can get</p> <p>6 through it quicker.</p> <p>7 Okay. So you said you're a small</p> <p>8 company. Can you tell me what the relevance of</p> <p>9 that is to what your ultimate policy became?</p> <p>10 A. Well, you know, our company is</p> <p>11 small to the point where we have very little</p> <p>12 turnover. So somebody that is in my position,</p> <p>13 there's only two people really in the corporate</p> <p>14 office that was looking at the reporting</p> <p>15 systems.</p> <p>16 So, you know, we didn't</p> <p>17 necessarily have a written policy, per se, but</p> <p>18 we knew what the policies were, what our jobs</p> <p>19 were, what our functions were. So it was really</p> <p>20 up to us to maintain that functionality on a</p> <p>21 monthly basis to make sure that, you know, the</p> <p>22 reports were looked at and followed up on,</p> <p>23 so ...</p> <p>24 Q. Who was the other person?</p> |

| | |
|--|---|
| <p style="text-align: right;">Page 206</p> <p>1 Q. Okay. So the report would say</p> <p>2 their average is one bottle for the last year</p> <p>3 and this month they ordered five bottles, you've</p> <p>4 got to look into it?</p> <p>5 A. We have to -- yes, that would be a</p> <p>6 case where I knew that we had different sizes</p> <p>7 and before they would -- they switched sizes.</p> <p>8 They switched size bottles.</p> <p>9 Q. Okay. Conversely, if a pharmacy</p> <p>10 was ordering, let's say, two bottles of 100</p> <p>11 tablets and that was their average for the last</p> <p>12 12 months, okay? Is that fair example to start?</p> <p>13 A. Yes.</p> <p>14 Q. All right. And then they switched</p> <p>15 the next month and they -- instead of getting</p> <p>16 two bottles of 100 tablets, they get two bottles</p> <p>17 of 500 tablets, would that show up on your</p> <p>18 12-month average rolling report?</p> <p>19 A. Yes, because previously they</p> <p>20 didn't order any of the 500s. Now they're</p> <p>21 ordering two. So their history was different.</p> <p>22 Q. Okay. So it would say -- it would</p> <p>23 say your previous 12-month on a 500-tablet</p> <p>24 bottle is zero and now you've ordered two?</p> | <p style="text-align: right;">Page 208</p> <p>1 regards to the six-week average if Jill was</p> <p>2 looking at that, but that was still part of the</p> <p>3 program. It wasn't something that I look at,</p> <p>4 but it was still something that was looked at by</p> <p>5 humans, by people, a set of eyeballs on it.</p> <p>6 So -- and if she had any questions about it, she</p> <p>7 would either contact the stores or contact me</p> <p>8 or -- you know.</p> <p>9 Q. Just to be clear, I don't want to</p> <p>10 know what Jill did because obviously Jill did</p> <p>11 that, so --</p> <p>12 A. All right.</p> <p>13 Q. Yeah. But just after looking at</p> <p>14 those two letters and all the things we</p> <p>15 discussed, it's still your position that DDM</p> <p>16 complied with the obligations that it had under</p> <p>17 the Controlled Substances Act?</p> <p>18 A. I believe so.</p> <p>19 Q. Okay. All right. And just so</p> <p>20 that we're clear, I want to just confirm, DDM's</p> <p>21 suspicious order monitoring policies and</p> <p>22 procedures were never put in writing, correct?</p> <p>23 A. Correct.</p> <p>24 Q. Okay. And those policies and</p> |
| <p style="text-align: right;">Page 207</p> <p>1 A. Correct.</p> <p>2 Q. And that's greater than</p> <p>3 99 percent?</p> <p>4 A. Correct.</p> <p>5 Q. So it wouldn't be based on the</p> <p>6 tablet numbers, it would be based on the</p> <p>7 bottle's size?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Was there any other unit</p> <p>10 that was tracked by that report that would cause</p> <p>11 it to generate other than bottle size?</p> <p>12 A. Not to my knowledge. It's been a</p> <p>13 while since I looked at that report.</p> <p>14 Q. Okay. After those two letters</p> <p>15 that we looked at from the DEA, do you believe</p> <p>16 that DDM complied with every obligation</p> <p>17 underneath the Controlled Substances Act?</p> <p>18 A. I do. I still think that our</p> <p>19 system, our SOMS system, looked at -- it wasn't</p> <p>20 just the 12-month rolling average. It was --</p> <p>21 you know, that was part and parcel of the plan,</p> <p>22 the program.</p> <p>23 Q. Okay.</p> <p>24 A. We did have a prospective in</p> | <p style="text-align: right;">Page 209</p> <p>1 procedures were not effective at deterring or</p> <p>2 preventing completely theft of hydrocodone from</p> <p>3 stores, correct?</p> <p>4 MR. JOHNSON: Objection.</p> <p>5 A. I think that -- you're talking</p> <p>6 about distribution level versus store level</p> <p>7 here, right?</p> <p>8 Q. I'm just asking you whether DDM's</p> <p>9 suspicious order monitoring policies were</p> <p>10 effective at preventing --</p> <p>11 A. Yes.</p> <p>12 Q. -- theft.</p> <p>13 A. Yes.</p> <p>14 Q. Okay. But you agreed with me</p> <p>15 earlier today that there were several instances</p> <p>16 where controlled substances were stolen from a</p> <p>17 DDM pharmacy, right?</p> <p>18 A. But -- yes, but the system</p> <p>19 caught -- the systems in place caught whatever</p> <p>20 was missing based on our monthly reports, based</p> <p>21 on the rolling reports, based on everything that</p> <p>22 we reported.</p> <p>23 Q. Right. They caught it after the</p> <p>24 fact, but they didn't prevent it, right?</p> |

Page 358

1 Q. Okay. So a more aggressive
2 controlled substance monitoring system was never
3 implemented?
4 A. Correct.
5 Q. Okay. Even though this e-mail
6 indicates that it was in the final process,
7 right?
8 A. I'm trying to find where that
9 states.
10 Q. Second sentence.
11 A. Oh, we're in the final process?
12 Unless he is in reference to the Chain Drug
13 Consortium that was mentioned earlier in here
14 that we were looking to aggressively change our
15 controlled drug policy.
16 Q. But this more aggressive
17 monitoring system was never put in place, as far
18 as you know, right?
19 A. Correct.
20 Q. Okay. Is there a reason why you
21 guys were asking the DEA for guidance on your
22 monitoring system in 2013 and didn't do it
23 before that?
24 A. No. But even after attending this

Page 359

1 conference, they never really spelled out what
2 methodology they really wanted us to do. It was
3 mentioned during this conference, "What are you
4 doing about all the prescriptions that we're
5 seeing? You know, it's somebody's job to
6 monitor the doctors and all the scripts that
7 we're seeing."
8 That's -- that's the source of
9 what -- we're filling their orders. Is anybody
10 monitoring the doctors? Is the AMA? Is the
11 DEA? And their answer was no.
12 Q. All right. We're on 23 now, which
13 is DDM31931.
14 ---
15 (DDM-Nameth Exhibit 23 marked.)
16 ---
17 BY MR. MULLIGAN:
18 Q. And just to confirm, you guys
19 never put your substance -- Controlled Substance
20 Monitoring Policy in writing, correct?
21 A. Correct.
22 Q. All right. So this is an e-mail
23 from Ed McGinley and you're on the to line on
24 December 2, 2013.

Page 360

1 Do you see that?
2 A. Yes.
3 Q. And there's a CDC Controlled
4 Substances Model Policy attached, and this is
5 from Ed McGinley, right?
6 A. Right.
7 Q. And he says, "Attached is a
8 substance model policy."
9 And then down below, he says, "It
10 is a comprehensive document intended to be used
11 as a template to construct controlled substance
12 policies or to evaluate and enhance existing
13 policies."
14 Right?
15 A. Correct.
16 Q. And if you turn to the next page,
17 there's the document he's referring to.
18 Do you see that?
19 A. Yes.
20 Q. What, if anything, did you do with
21 this document?
22 A. We reviewed it to see if it would
23 fit our model.
24 Q. Did it fit?

Page 361

1 A. For the most part, yes, with small
2 tweaks in there.
3 Q. Okay. Did you change your
4 unwritten controlled substance monitoring policy
5 at all after seeing this document?
6 A. Not on a corporate level.
7 Q. Okay. Did you do it on a store
8 level?
9 A. No.
10 Q. Okay. So this didn't cause you to
11 change anything that you were doing, correct?
12 A. Correct.
13 Q. Okay. Did you ever provide a
14 document like this to a distributor if they
15 required evidence that you had a suspicious
16 order monitoring policy?
17 A. Yes. If they -- what we did, if I
18 remember correctly, in reviewing this -- this
19 was in late '13 -- we looked at this and
20 basically what a lot of this is, or most of it,
21 is what we currently were doing so that if
22 someone did ask us for a written policy -- if we
23 had a policy, this was already written in and it
24 matched what we were currently doing, so we

Highly Confidential - Subject to Further Confidentiality Review

Page 1

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

- - -

| | | |
|-----------------------|---|---------------------|
| IN RE: NATIONAL | : | |
| PRESCRIPTION | : | MDL No. 2804 |
| OPIATE LITIGATION | : | |
| <hr/> | | Case No. |
| | | 1:17-MD-2804 |
| THIS DOCUMENT RELATES | : | |
| TO ALL CASES | : | Hon. Dan A. Polster |

- - -

Thursday, December 6, 2018

HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
CONFIDENTIALITY REVIEW

- - -

Videotaped deposition of JASON BRISCOE, held
at the offices of Cavitch, Familo & Durkin,
1300 East Ninth Street, Cleveland, Ohio, commencing at
9:05 a.m., on the above date, before Carol A. Kirk,
Registered Merit Reporter and Notary Public.

- - -

GOLKOW LITIGATION SERVICES
877.370.3377 ph | 917.591.5672 fax
deps@golkow.com

Highly Confidential - Subject to Further Confidentiality Review

| Page 242 | Page 244 |
|---|---|
| <p>1 put in front of you marked as Briscoe 16?</p> <p>2 A. I believe I have, yes.</p> <p>3 Q. Okay. And your counsel forwarded</p> <p>4 this to us last Friday afternoon, and we were</p> <p>5 trying to get the answers to DDM's suspicious</p> <p>6 order monitoring policies and procedures and try</p> <p>7 to put some kind of meat on the bone, so to</p> <p>8 speak, okay? And Judge Polster ordered the</p> <p>9 Defendants to give us some answers to a few</p> <p>10 questions, and I want to take you through a</p> <p>11 couple of those, the ones that relate to your</p> <p>12 suspicious order monitoring policy.</p> <p>13 So who would be the right person</p> <p>14 to talk to about the transactional data, those</p> <p>15 two charts that we just went through from like</p> <p>16 '99 to 2002, and what's there and what's not, is</p> <p>17 it accurate, are we missing, is there holes --</p> <p>18 who would be the right person that would know</p> <p>19 that?</p> <p>20 A. So I believe both have been named.</p> <p>21 The previous director or VP of IT, her name is</p> <p>22 P.J. Ferut.</p> <p>23 Q. Okay.</p> <p>24 A. And then our current director of</p> | <p>1 about 1:30, and we were already en route here.</p> <p>2 So I don't have a real good command of where we</p> <p>3 are with all these, and they're a big stack,</p> <p>4 okay?</p> <p>5 So what I want you to do is not</p> <p>6 worry about the stack so much, but recognize</p> <p>7 that I might not have a real good command of the</p> <p>8 stack. And I just have a few questions.</p> <p>9 So do you believe that from</p> <p>10 January of '06 that the suspicious order</p> <p>11 monitoring systems, policies, and procedures are</p> <p>12 in writing within DDM evidencing what the</p> <p>13 formulas and the methodology was?</p> <p>14 A. In writing from 2006?</p> <p>15 Q. Yes.</p> <p>16 A. I don't believe so.</p> <p>17 Q. Do you know when, at what point in</p> <p>18 time, there was something in writing evidencing</p> <p>19 DDM's system that was designed to identify</p> <p>20 suspicious orders, when was that put into</p> <p>21 writing?</p> <p>22 A. I don't know.</p> <p>23 Q. Do you know if it was ever put</p> <p>24 into writing?</p> |
| Page 243 | Page 245 |
| <p>1 IT is Keith Miller.</p> <p>2 Q. All right. So P.J. Ferut could</p> <p>3 help --</p> <p>4 A. P.J. Ferut and Keith Miller.</p> <p>5 Q. Okay. Perfect.</p> <p>6 All right. Number 2 is "Please</p> <p>7 produce each of your Suspicious Order Monitoring</p> <p>8 System (SOMS) policies and procedures since</p> <p>9 January of '06 and identify the Bates stamp</p> <p>10 range for each. Please identify the effective</p> <p>11 dates each was in force and effect."</p> <p>12 Did I read that right?</p> <p>13 A. Yes.</p> <p>14 Q. Bear with me here, Mr. Briscoe. I</p> <p>15 just thought of something I forgot to look at</p> <p>16 beforehand.</p> <p>17 Now, your counsel was kind</p> <p>18 enough -- as you can see here, it says, "To the</p> <p>19 extent the Bates range stamps are needed, we</p> <p>20 will supplement." Okay? And we did inquire to</p> <p>21 try to get the Bates ranges. And I'm going</p> <p>22 to -- if the last few hours wasn't awkward</p> <p>23 enough, this might be worse, because we got</p> <p>24 those with working with your counsel yesterday</p> | <p>1 A. I know that in preparation for,</p> <p>2 you know, these documents in my deposition, we</p> <p>3 formalized by describing what our policies and</p> <p>4 procedures are.</p> <p>5 Q. Now, what do you mean by that, "In</p> <p>6 preparation for these documents in my deposition</p> <p>7 we formalized by describing ..."? What do you</p> <p>8 mean?</p> <p>9 A. Meaning I did not go to a document</p> <p>10 or a policy and procedure that was created to</p> <p>11 hand over as describing our -- the way that we</p> <p>12 operated.</p> <p>13 Q. That would have made it real easy,</p> <p>14 wouldn't it?</p> <p>15 A. Yes, it would.</p> <p>16 Q. Because it really -- there wasn't</p> <p>17 anything in writing, right?</p> <p>18 A. I think there were components in</p> <p>19 writing. I don't know that it was -- that all</p> <p>20 the dots were connected in a policy and</p> <p>21 procedure.</p> <p>22 Q. Let's make it -- let's maybe see</p> <p>23 if we can connect some of those dots, okay?</p> <p>24 The 52-week average report that we</p> |

62 (Pages 242 to 245)